



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/700,216	08/20/96	STUFFLEBEAM	J 19088.00.109

JOHN W HARBST  
SUITE 1800  
203 NORTH LASALLE STREET  
CHICAGO IL 60601-1293

CSM1/0922

EXAMINER	
BATSON, V	
ART UNIT	PAPER NUMBER
3501	3

DATE MAILED: 09/22/97

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

# Office Action Summary

Application No.  
**08/700,216**

Applicant(s)  
**STUFFLEBEAM ET AL.**

Examiner  
**VICTOR BATSON**

Group Art Unit  
**3501**



☐ Responsive to communication(s) filed on \_\_\_\_\_

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-15 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-15 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Aug 20, 1996 is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Part III DETAILED ACTION

***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 527, 528, 526. Additionally, spring structure 350 is not identified in figures 12 & 13 as described on page 28. Correction is required.

***Specification***

2. The disclosure is objected to because of the following informalities: On page 3 line 21, should "are" be inserted before "open". On page 4 line 18, It appears that "side" should be inserted after "opposite". On page 6 lines 13-14, the phrase "adjacent to peripheral to disc" is not understood by the examiner. On page 13 line 19, the phrase "a the full" is not understood by the examiner. On page 21 line 4, it appears that "watt" should be changed to "wall". On page 38 line 12, the phrase "of the at is" is not understood by the examiner. On page 43 line 3, it appears that "split housing assembly" should be inserted before "40". Appropriate correction is required.

***Title***

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which

the claims are directed. The title does not include direction to the concave channel as is claimed.

***Claim Objections***

4. Claim 2 is objected to because of the following informalities: In claim 2 line 3, "said the interior" should be changed to "said interior" or "the interior".

***Claim Rejections - 35 USC § 112***

5. Claims 1-11,13,14 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1 lines 9 & 10, "said chamber" lacks proper antecedent basis as antecedent basis has been set for "a chamber for seeds" (line 7) and "a vacuum chamber" (line 8). In claim 6 line 9, there appears to be text missing between "said" & "being", and it is unclear what applicant is referring to. In claim 13 line 1, "The second seed metering apparatus" lacks proper antecedent basis.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more

than one year prior to the date of application for patent in the United States.

7. Claims 1,2,12,15 are rejected under 35 U.S.C. § 102(b) as being anticipated by Ribouleau (4,949,869).

Ribouleau discloses a suction type seed metering device having all of applicants claimed structure including a vertically mounted disc 18, and a housing having its interior divided by said disc into two adjacent enclosures, with one enclosure at least partially defining a chamber for seeds, and with the other enclosure constituting a vacuum chamber with an opening 38.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

9. Claims 4 are rejected under 35 U.S.C. § 103 as being unpatentable over Ribouleau (4,949,869).

Ribouleau discloses a suction type seed metering apparatus as described previously, but lacks specifying that the disc has a periphery measuring about 300mm. It would have been an obvious matter of design choice to modify Ribouleau by using a disc having a periphery measuring about 300mm, since applicant has not disclosed that having the disc at this particular size solves any stated problem or is for any particular purpose or provides any unexpected results, and that the device would perform equally well with standard sized discs known in the art. Additionally, it is noted that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

#### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The remaining references disclose various seed metering devices.

#### ***Allowable Subject Matter***

11. Claim 6 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112 set forth in this Office action.

12. Claims 3,5,7-11,13,14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112 set forth in this

Serial Number: 08/700216  
Art Unit: 3501

Page 6

Office action and to include all of the limitations of the base claim and any intervening claims.


**Inquiries**

13. Any inquiry concerning this communication should be directed to Examiner Victor Batson whose telephone number is (703) 305-6356. The examiner can be normally reached Monday through Friday (except Wednesday) from 7:00 am to 5:00 pm, Eastern Standard Time.

14. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randolph Reese, can be reached on (703) 308-2121. The fax phone number for this Group is (703) 305-3597/8.

**VICTOR BATSON  
PATENT EXAMINER  
GROUP 3500**

Victor Batson  
September 15, 1997

  
**TERRY LEE MELIUS  
PRIMARY EXAMINER  
GROUP 350**